

**FENWICK ISLAND
TOWN COUNCIL**

September 25, 2009





The Town of Fenwick Island

800 Coastal Highway
Fenwick Island DE 19944
302.539.3011 * Fax: 302.539.1305

www.fenwickisland.delaware.gov

Regular Meeting of the Town Council
The Town of Fenwick Island
September 25, 2009 @3:30 PM
AGENDA

1. Flag Salute and Call to Order
2. Topics for Discussion and Possible Action
 - a. Capital Expenditures – Council Member Bunting
3. Approval of Minutes from August 28, 2009 Regular Council Meeting.
4. Treasurer's Report: Council Member Bunting
5. Town Manager's Report – Win Abbott
6. Department Reports: Beach, Building, Public Works and Police Department
7. Committee Reports: Beach, Environmental
8. Planning Commission: Winnie Lewis
9. Charter and Ordinance: Council Member Weistling
 - a. Proposed First Reading Chapter 48 Animals
 - b. Proposed First Reading Chapter 52 Beaches
 - c. Proposed Second Reading Chapter 100 Licensing, 100-3
 - d. Proposed Second Reading Chapter 116 Peace and Good Order, 116-2
10. Old Business
11. Public participation
12. President's Report
13. Upcoming Events and Meetings
 - a. October 6 Charter & Ordinance Committee 9:30 AM
 - b. October 12 Columbus Day Holiday - Town Hall Closed
 - c. October 13 Cultural & Historic Preservations Sub-committee and Planning Commission 1:30 PM and 2:30 PM respectively
 - d. October 23 Regular Council Meeting 3:30 PM
14. Adjournment

This agenda is subject to change to include the deletion of items and the addition of items, including Executive Sessions, which arise at the time of the meeting.

Posted: September 9/14/09; 9/15/09 addition of item (a) For Discussion and Possible Action

Minutes of the August 28, 2009 Regular Council Meeting

DRAFT

Call to Order and Flag Salute at 3:30 pm by Mayor Serio.

Council in Attendance: Weistling, Bunting, Serio, Langan, Carmean, Tingle and Smallwood.

Introduction of New Council

Mayor Serio welcomed Gene Langan as a new council member and re-introduced the other members.

Topics for Discussion and Possible Action:

- a. Street Renaming Resolution #39-2009 – Win Abbott, Town Manager
Mr. Abbott reported that residents have participated in the renaming process. The resolution reflects the majority consensus of the residents who can expect a change. Mayor Serio read resolution (copy attached).

Motion to adopt Resolution #39-2009 – Bill Weistling
Second – Gardner Bunting

DISCUSSION

Council Member Carmean noted that she is a resident of one of the streets that Sussex County has identified as requiring a change of name. Council Member Carmean advised that residents are unhappy with the new name selected (Ensign St). Town Manager Abbott noted that he was advised by Sussex County that the name preferred by resident on Essex Street Extended (Ebb Tide) has already been reserved by a builder. Council Member Todd Smallwood asked if the County intends to change the names for Bay Street and Bay Avenue. Mr. Abbott advised that those streets were not identified by Sussex County as requiring a change. Council Member Carmean asked that the process be explained.

Vote to adopt Street Renaming Resolution #39-2009 (6-1)
Council Member Carmean voted "No"
Street Renaming Resolution #39-2009 Passed

FURTHER DISCUSSION

As per Council Member Carmean's request Town Manager Abbott explained the renaming process. Mr. Abbott provided a history of the renaming project which began in 2008. The Town is exempt from 5-digit numbering but several properties were identified as presenting a problem for Sussex County 911 Emergency Responders. Town Manager Abbott advised those affected by the change via US mail, telephone and workshops. Residents attended workshops to discuss the changes and voted on the preferred name at that time or via postcard at a later date. Those names chosen are listed on Resolution #39-2009. Town Manager Abbott will notify Sussex County of the choice(s). Sussex County will then notify property owners of the change(s) by letter hand-delivered to their property. The letter has a stub attached to the bottom which property owners must complete and return to the County acknowledging receipt. The County will notify the US Post Office of changes within 30 days; property owners must notify their individual vendors and are responsible for proper display of house numbers.

- b. Curbside Recycling Status– Town Manager Win Abbott
Town Manager Abbott reported that he has met with representative of Allied Waste Disposal and that the vendor has acquainted itself with the route as well as placed its own company logos over those of DSWA. Allied Waste will notify all residents by mail with contact information. There will be no interruption of service. July recycling data: 2,987 household pickups and 46, 140 pounds of recycled materials.

DISCUSSION: None

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- Council Member Carmean requested that she be allowed to address the subject of the "marine police" as reported in the Delaware Wave Newspaper. This item is not currently on the agenda. Mayor Serio advised that there will be a Special Council Meeting on Wednesday September 2, 2009 to address this and other items pertaining to grants and capital expenditures.

Approval of Minutes:

Motion to Approve the Minutes of July 24, 2009 Meeting: Council Member Weistling

Second: Council Member Bunting

DISCUSSION: Council Member Weistling requested a change be made to page 5 C&O: Discussion of wind turbines should show a ratio of 1.1 not 1:1. Council Member Bunting requested that a change be made regarding the presentation at the last meeting which stated an increase in the police department budget. The Budget has been decreased \$54,568.

Vote to approve minutes with the noted change: All in favor

Motion carried (7-0)

Treasurer's Report:

Council Member Bunting presented Treasurer's Report. Mr. Bunting noted that the Town ended the month 8% over income. Auditors have been in the office and will provide the results of the annual audit some time in September or October. All departments were under budget but income lagged causing a shortfall.

DISCUSSION

Council Member Carmean asked if the shortfall will be funded from the Town's savings; Council Member Bunting responded yes. Council Member Carmean asked the source of funds for street lights since the Municipal Street Aid Fund will not be available. Council Member Bunting advised that council will determine a source for these funds as well. Mayor Serio reported that the Budget Committee will meet quarterly; Council Member Bunting requested Town Manager Abbott poll committee members to determine their availability to meet on September 9, 2009 or, if not available, a convenient time closest to that date.

Motion to Accept the Treasurer's Report: Council Member Carmean

Second: Council Member Langan

Vote to accept the Treasurer's Report as presented: All in favor

Motion carried (7-0)

Town Manager Report:

- Town Manager, Win Abbott, reported that a copy of the Ambulance Service Policy is available (copy attached).
- Mr. Abbott has met with representatives of the Delaware League of Local Governments and updated emergency policy procedures. Accounting software has been upgraded and direct deposit of payroll is now available to employees.
- Atlantic Immediate Care (Ocean City, MD) has been awarded preferred provider status for Town employees who require occupational health services.
- Villalon Hall was painted in time for the Old Fenwick Island Days program.

Department Reports:

- Beach Patrol – Report is included in the council packet. Tim Ferry thanked Council for its donation and advised that they are now short-staffed due to guards returning to school. Full time service ends on Monday September 7. The beach will be guarded for two more weekends after that. Mayor Serio commended the Beach Patrol for its good work during the recent rip currents caused by Hurricane Bill.
- Building Official – Report is included in the council packet.
- Public Works: Report is included in the council packet. Town Manager Abbott reported that staff has participated in a safety procedures program.

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- Fenwick Island Police Department: Chief Boyden noted that the report is included in the council packet. The second Pedestrian and Bicycle Safety Checkpoint was held on August 19. The department will host three events next year. Bicycle thefts have increased and residents should be vigilant.

DISCUSSION

Council Member Carmean asked Chief Boyden how often during the day a patrol vehicle tours the streets. Chief Boyden responded that the number of times may vary depending on the work load but that 3-4 times a day is normal. Council Member Carmean asked Chief Boyden to explain the variation in miles traveled from a mileage report which the Chief provided to her. Chief replied that mileage can come from arrest load, transport of prisoners, training and court appearances. Council Member Carmean asked if the Chief's use of a take-home vehicle is reflected in the mileage figure; Chief replied that it is not and that he logs 16 miles a day.

Committee Reports:

- Beach Committee – Todd Smallwood announced the Coastal Cleanup Day on September 19. Meet at 9AM on Dagsboro Street. Sign up forms are available at town hall. Leave completed forms at town hall. Tim Ferry advised that the \$500 received from the Bethany-Fenwick Chamber of Commerce will be used for salaries the two weekends following Labor Day.
- Environmental Committee – Council Member Carmean reported that the committee is exploring a lighting ordinance and will pass its recommendations on to Charter & Ordinance. Extra rain barrels are available.

Planning Commission:

Report included in Council book. Council Member Weistling thanked members of the Cultural and Historic Preservation Sub-committee for its work on Old Fenwick Island Days.

Charter & Ordinance:

- Council Member Weistling motioned to accept a First Reading of Chapter 100 – Licensing 100-3 License Fees Council Member Tingle seconded.

DISCUSSION

Council Member Weistling noted that the proposed change will provide for licensing of a concession in the event one is allowed to operate. Council Member Bunting advised that the Budget Committee identified the licensing of concessions as a means of increasing revenue but that no action was taken by them. Council Member Carmean noted that Chapter 116-2 prohibits concessions; Council Member Weistling advised that a proposed change will follow this reading. There was no Public comment.

Vote to accept the First Reading of Chapter 100 – Licensing 100-3 License Fees: All in Favor.
Motion passed (7-0)

- Council Member Weistling motioned to accept a First Reading of Chapter 116 Peace and Good Order – 116-2. Council Member Carmean seconded.

DISCUSSION

Council Member Weistling noted that the proposed change follows on the change to Chapter 100- Licensing 100-3 License Fees and provides for the licensing of concessions at activities approved by Town Council.

PUBLIC PARTICIPATION

- Peter Frederick (1605 Bunting Ave) – asked if Council has outlined criteria for what is to be allowed and if the sale of T-shirts by the Town's Beach Committee is included. Council Member Weistling advised that, in the future, it may be necessary to adopt a resolution or ordinance to regulate what may be sold. Mayor Serio noted that changes will be reviewed by Town's solicitor.
- Jeff Tyson (14 Virginia Ave EXT) – asked if commercial entities and yard sales are to be included.

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- Gail Warburton (10 W Farmington St) – asked if the Farmers Market (each individual stall) is included. Building Official Pat Schuchman responded that the Farmers Market does not need a license to operate; current law allows for farmers markets and individual farmers to sell their own products without obtaining a license from the town.
- Lynn Andrews (1205 Schulz Rd) – asked if the current produce vendor is required to have a license; Pat Schuchman responded that the sale of products produced on your own farm does not require a license but that the sale of products from an outside source does require a license.
- Dick Bowman (7 W Dagsboro St) – asked if persons can sell products from a truck; Council Member Weistling responded that so long as the trucker has grown the produce himself, he can sell it. Pat Schuchman added that the Town's Charter supports State of Delaware Law and allows for the sale of produce from one's own farm operation without obtaining a license.

Vote to accept the First Reading of Chapter 116 Peace and Good Order – 116-2: All in favor
Motion passed (7-0)

- Council Member Weistling motioned to accept a Second Reading of Chapter 160 Zoning – Small Wind Energy. Council Member Tingle seconded.

DISCUSSION

Council Member Weistling noted that the proposed change was discussed at a public hearing today immediately preceding this regular council meeting.

- Council Member Smallwood – opposed to the change; sees wind turbines as visual blight. Added that the Town's current 30' height limit is ruined by a 40' tall turbine. Suggested that Council wait before passing ordinance or cap height at 30'. An exception was made recently to allow solar panels on flat roofs at 36' but the turbine is different. His internet research show that a minimum of ½ acre is needed to support a turbine.
- Council Member Carmean – suggested that Council reconsider the height of the turbine.
- Council Member Weistling – Research shows that 40' to be the correct height for structures in town; a minimum of 10' above the existing roof line is needed. The 1.1 ratio provides protection for adjacent properties in the event of structural failure. Placing turbines on roof tops is not addressed at this time as no adequate information currently exists on which Council can make an informed decision. Charter and Ordinance recommended going slowly on this new technology, so wind towers are the only item directly addressed at this time. As technology matures, Charter and Ordinance will revisit the topic.
- Mayor Serio – Council is not recommending placing turbines on small lots. The Council is concerned with protecting property and with providing guidelines for installation. The height limits should be included in the ordinance as currently written.
- Todd Smallwood – suggested capping the height of turbines to 30' so that structures of 40' (if constructed) will not be grandfathered in should Council revisit the ordinance.
- Council Member Weistling - suggested restating the ordinance to show a turbine height of 33' the same as roof-top installed solar units.

Council Member Weistling amended motion to accept the Second Reading of Chapter 160 Zoning – Small Wind Energy to read: "c. **Total Height:** Total height (including the wind turbine itself) shall not exceed 33 feet above grade and tower shall be independent of any other structures on property. "
Council Member Carmean seconded.

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PUBLIC PARTICIPATION

- Ben Waide (2 W Dagsboro St) – suggested that if the Town limits the height to 33' then the installer will figure out a way to meet that requirement.
- Pete Frederick (1605 Bunting Ave) – noted that the proposed ordinance states that a tower shall be independent of other structures; if Council changes the height limit to 33' does Charter and Ordinance intend to change the ratio to 1.3. Council Member Weistling responded that there will be no corresponding change to the required ratio.
- Mike Quinn (5 W Houston St) – asked that towers be independent structures and not located in the center of a building and extend through the roof. Mayor Serio noted that a building permit would be needed should a contractor intend to install a turbine in the center of a home.

Vote to accept the Second Reading of Chapter 160 Zoning – Small Wind Energy System:

Smallwood – no; Carmean – yes; Bunting – yes; Serio – yes; Weistling – yes; Tingle – yes; Langan – yes

Motion passed (6-1)

- Council Member Weistling motioned to accept a Second Reading for Chapter 73 Burning, Outdoor – Bonfire Fee and Penalty
Council Member Bunting seconded

DISCUSSION:

Council Member Weistling advised that this change is being made to allow flexibility in the fee schedule for bonfires. The fee is removed from Code and placed in the Fee Schedule as per advice of Town's Legal Counsel.

Vote to accept the Second Reading Chapter 73 Burning, Outdoor – Bonfire Fee and Penalty:

Smallwood – yes; Carmean – yes; Bunting – yes; Serio – yes; Weistling – yes; Tingle – yes; Langan – yes

Motion Passed (7-0)

- Council Member Weistling motioned to accept a Second Reading for Charter §15 – Vacancies and Forfeitures -Town Council
- Council Member Langan seconded

DISCUSSION:

Council Member Weistling advised that this change evolved from a review of Section 6 (a) Elections. This change is similar to one enacted recently by the Town of Dagsboro and is recommended by Town Solicitor Steen. Council

Vote to accept a Second Reading for Charter §15 – Vacancies and Forfeitures

Smallwood – yes; Carmean – yes; Bunting – yes; Serio – yes; Weistling – yes; Tingle – yes; Langan – yes

Motion Passed (7-0)

Old Business:

- None

Public Participation:

- Building Official Pat Schuchman read from Town Charter Section 26 "G" that the Town does have the power to require a license and to collect a fee. The Town cannot charge a mandatory fee for resident farmers who sell their own farm products.
- Paul Buerhle (4 W Dagsboro St) – asked if the Town is liable for damage when lifeguard protection diminishes due to the end of the season; Mayor Serio advised that she is not sure and will check with the Town's Solicitor. Reverend Buerhle asked if the Bonfire Regulation applies only to bonfires on the beach and not at homes. Mayor Serio advised that the Town regulates bonfires on the beach only.

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- Lynn Andrews (1205 Schulz Rd) – thanked Council Member Smallwood for limiting the height of turbines.
- Peter Frederick (1605 Bunting Ave) – corrected a recent newspaper article quoting him. Mr. Frederick advised that he was asked to comment on a proposed project to acquire a boat and equipment for the Fenwick Island Police Department. Mr. Frederick advised that he told the news reporter that he was not sure how often the town would need a boat and that if funds were available they might be put to better use to dredge the canals.
- Linda Bunting (16 E Dagsboro St) – asked council to consider paving ocean side streets.
- Gail Warburton (10 W Farmington St) – regarding fines, Mrs. Warburton asked if, when included in an ordinance, does “shall” mean the same as “must.” Chief Boyden advised that ordinances leave the question of fines up to the discretion of the police and that judges have the same latitude.
- Dick Bowman (7 W Dagsboro) – expressed dissatisfaction with the printed agenda and meeting packet provided at meetings. He would like all council materials be made available at the meetings as he does not use the internet. Mayor Serio noted that fewer copies save the town money.
- Marcia Frederick (1605 Bunting Ave) – related a concern of her neighbor, Sylvia Driver, who is not able to attend the meeting. According to Mrs. Frederick, Mrs. Driver wants the names of the streets to be posted on the beach side of each street end. Mayor Serio asked Town Manager Abbott to look into it; Chief Boyden advised that a letter that corresponds to the cross street has been placed on each dune at the cross-over path.
- Gail Warburton (10 W Farmington St) – requested that information regarding name/number changes be sent to her as the property owner and not hand-delivered to the property. Council Member Bunting reiterated that the bottom portion of the form must be returned to Sussex County; Mayor Serio suggested Mrs. Warburton speak with Town Manager Abbott.
- Peter Frederick (1605 Bunting Ave) – suggested that a snow fence be installed at beach ends and not the rope that is there now. He asked if it’s possible for the town to install it. Council Member Bunting advised that DNREC does not have funds for the snow fence and that the town would need DNREC permission if it were to do it; Mayor Serio advised that the Town does not have the funds to install fencing.

President’s Report:

- Mayor Serio thanked all who participated in Old Fenwick Island Days and congratulated the Planning Commission/sub-committee for a successful week. The event will be evaluated and the Commission will determine how to proceed.
- Mayor Serio thanked Chris Clark for his past service as a Council Member. He was instrumental in the Comprehensive Plan and in Curbside Recycling.
- Mayor Serio advised that a form to volunteer to serve on committees is available. The Parks and Recreation Committee will be concerned with open space and recreation and not with planning events in the town.
- Coastal Clean up is September 19, 2009 @9:00AM
- Mayor Serio made note of upcoming meetings.

Motion to Adjourn: Council Member Bunting

Second: Council Member Carmean

Vote: All in favor

Motion passed (7-0)

Mayor Serio adjourned the meeting at 5:00 PM.

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Respectfully submitted,

Diane Tingle, Secretary

Recorded and Transcribed by Agnes DiPietrantonio, Town Clerk

NOTICE

On August 28, 2009 The Fenwick Island Town Council
Passed the Following Resolution #39-2009

Whereas, it has been determined that in order to better serve the health, safety and welfare of the citizens of Sussex County that it be necessary to adopt an ordinance establishing standards for naming roadways, posting street signs and assigning numbers to all dwellings and businesses that will assist emergency services, the United States Postal Service the public in the timely and efficient provision of services to these residents and business; and

Whereas, the Town of Fenwick Island did, on October 24, 2008, resolve to enlist the services of the Sussex County Mapping and Addressing Departments to assist in re-addressing and re-naming streets within the Town limits that have been identified as areas of concern for Public Safety ; and

Whereas, the streets currently named West Essex Street Extension, West Farmington Street Extension, Virginia Avenue Extension and West West Virginia Avenue had been found to be areas of concern ; and, through outreach to its citizens, have found names that meet County standards and that are acceptable to residents.

Therefore, the Town Council, of the Town of Fenwick Island, on behalf of the citizens and property owners of the Town of Fenwick Island, in order to accomplish this goal, do hereby establish for this purpose, and do hereby establish the following names for these streets: Ensign Street, Windward Way, High Tide Lane and West Virginia Avenue W. respectively.

Attest:

Agnes D. DiPietrantonio, Town Clerk

Audrey Serio, President of Council

Diane B. Tingle, Council Secretary

I, Diane B. Tingle, Secretary of the Town Council, of the Town of Fenwick Island, Delaware, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by the President and Council at a meeting on August 28, 2009, at which a quorum was present and voting throughout and the same is still in force and effect.

Date

Diane B. Tingle, Council Secretary

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AMBULANCE SERVICE POLICY

August 2009

The Town of Fenwick Island, through its government, is vested with powers necessary for the protection and preservation of public health, safety and welfare (Town Charter, Section 25 "General Powers). In 2007, the Town was notified that ambulance service provided to this area by the Millville Volunteer Fire Company would be terminated. A partnership between the Town of Fenwick Island, South Bethany, Bethany Beach and Sea Colony was formed. This partnership contracted with the Bethany Beach Volunteer Fire Company to provide ambulance service to business and property owners in their respective jurisdictions.

Subscribers to this service are the legal owners of any property in this service district. If there are multiple owners of the property, each owner is a subscriber. This status is effective whether the subscriber is on that property or elsewhere in the district. Renters and visitors of subscriber homes are treated as subscribers. Employees of business subscribers are covered, as well. Business invitees and guests of hotels are not, however.

The Town of Fenwick Island assesses each parcel of property or sub-divided parcel, as is the case with condominiums and merchants. This assessment for ambulance service is currently \$33 per year. The Finances of the service company are monitored by a committee representing the four "towns". The fee for this service may increase over time, but the assessment will reflect a share of each town's responsibility only. This fee is included with your annual property tax and comprehensive refuse fee.

Both subscribers and non-subscribers will be rendered ambulance service when needed. Subscribers, though, will not be billed for any amount greater than that which is covered by their medical or other insurance.

The Bethany Beach Volunteer Fire Company operates the ambulance service as an entity that is separate from the fire and emergency rescue service. Your tax-deductible contributions to the fire company are both appreciated and essential to their continued operation.

Each year, from early May through late June, the Town of Fenwick Island holds budget meetings to prepare for the new fiscal year. These meetings are open to the public. The most current information about the ambulance service and upcoming assessment will be made available at that time. The Council reviews and approves the budget at their regularly scheduled monthly Council meeting. Meeting minutes and the budget are posted on the Town web site (www.fenwickisland.delaware.gov).

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Proposed 1st Reading – August 28, 2009

Existing:

Chapter 100 - Licensing

§100-3 - License fees.

A. Any person engaged, for profit, in selling any and all merchandise and/or given commodities and/or in providing facilities, services, rental units and/or food service within the Town at or from any given establishment as follows shall pay an annual fee as set by resolution of the Town Council from time to time:

- (1) Each establishment used as a restaurant or eating establishment or carry-out food establishment.
- (2) Each establishment used for real estate sales or rentals.
- (3) Each establishment for sale of any merchandise and/or commodities and/or combination thereof.
- (4) Each establishment used as a bank or lending institution.

Add:

- (5) *Each concession that operates in Town and/or on the beach.*

Proposed 1st Reading – August 28, 2009

Chapter 116 Peace and Good Order - 116-2:

Existing:

§116-2. Soliciting sales on public beaches.

It shall be unlawful for any person to sell or solicit the sale of anything on any part of the public beaches or public streets within the corporate limits of the Town of Fenwick Island, Delaware.

Add:

Add to the end of this sentence: "unless such activity is approved by Town Council."

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Proposed 1st Reading - July 24, 2009
Proposed 2nd Reading - August 28, 2009

Chapter 160 – Zoning:

Add:

Chapter 160-2B (Definitions and Word Use):

SMALL WIND ENERGY SYSTEM: A wind energy conversion system consisting of a wind turbine (rotor, blades, generator, alternator, tail), a tower, and associated control or conversion electronics, and which is intended primarily to reduce on-site consumption of utility power.

TOTAL HEIGHT (SMALL WIND ENERGY SYSTEM): The distance measured from ground level (including the wind turbine itself) to its highest point.

Add:

Chapter 160-7 – Renewable Energy Systems:

B. Small Wind Energy Systems - Tower

1. Provisions, regulations and conditions for small wind energy systems are as follows:

- a. **Maximum Rated Capacity:** No more than one tower-mounted small wind energy system may be placed on a property and may not exceed 10 kilowatts of production.
- b. **Minimum Yard Requirement:** The base of the tower shall be set back from all property lines, public rights-of-way, and public utility lines a distance equal to 1.1 times the total height. A turbine may be located at a property line by variance from the Board of Adjustment which shall consider whether the abutting property owner objects.
- c. **Total Height:** Total height (including the wind turbine itself) shall not exceed 40 feet above grade and tower shall be independent of any other structures on property.
- d. **Noise:** Sound produced by the system under normal operating conditions, as measured at the property line, shall not exceed fifty-five (55) dBA. Manufacturer's specifications will serve as verification of dBA levels. Any complaints that noise from the small wind energy system exceeds 55 dBA shall be accompanied by an independent certified source. This sound level may be exceeded during short-term events such as utility outages and/or severe windstorms.
- e. **Appearance:** Wind turbines shall be painted in a non-obtrusive color such as the manufacturer's default color option.
- f. **Compliance with Building Code:** System must obtain a building permit and must comply with applicable requirements of the International Building Code.
- g. **Inspections:** A final inspection by Sussex County Building Code Official of the installation, including an electrical inspection, is required before a system may be activated.
- h. **Requirement for Engineered Drawings:** Building permit applications for small wind energy systems shall be accompanied by standard drawings of the system and stamped

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engineered drawing of the tower, base, footings, and/or foundation (with consideration given to specific soil conditions) as provided by the manufacturer. A manufacturer's specification sheet including a photograph of the system shall accompany the application for the building permit.

- i. **Compliance with Federal Aviation Administration Regulations:** Small wind energy systems shall comply with FAA regulations described in FAR Part 77 of the FAA guidance on airspace protection.
- j. **Compliance with National Electric Code:** Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components, as supplied by the manufacturer, in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. Wiring and power lines shall be wireless or underground whenever possible.
- k. **Unsafe or Abandoned Systems:** If a system is found to be unsafe by the Building Official, the system must be repaired and made code compliant within 30 days of notification of the property owner. A system that is unused or abandoned for a period of more than 12 months shall be ordered by the Building Official to be made operational or removed within 30 days of such order.
- l. **Signage:** No signs or advertising shall be displaced on any part of a system other than the manufacturer or installer's identification and appropriate safety warning signs.
- m. **Lighting:** No illumination of the system shall be permitted unless required by the FAA, or unless the tower is also used for street or parking lot lighting, or some similar compatible use.
- n. **Safety:** Any steps or other devices to assist the climbing of the tower must start at 12' above ground level.

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Proposed 1st Reading – July 24, 2009
Proposed 2nd reading – August 28, 2009

EXISTING:

§ 73-2. Issuance of permits; deposit.

- B. The Chief of Police shall require a deposit of \$50 before issuing a permit for a bonfire on the beach, with the provision that \$40 shall be returned if the general area of the beach where the bonfire was held is satisfactorily cleaned and restored, and \$10 shall be retained as a permit fee.

§ 73-3. Rules for Bonfire:

- H. The beach must look as though you were never there. Thoroughly clean area and remove any trash or other debris. Remember to leave only your footprints.

§ 73-4. Violations and penalties

Any person violating the provisions of this chapter shall be fined \$50 and costs for each and every offense.

PROPOSED:

§ 73-2. Issuance of permits; deposit.

- B. The Chief of Police shall require a deposit before issuing a permit for a bonfire on the beach with the provision that it shall be returned only if the general area of the beach where the bonfire was held is satisfactorily cleaned and restored. In addition, the bonfire permit holder shall pay a fee and deposit to the Town as set by resolution of the Town Council passed annually.

§ 73-3. Rules for Bonfire:

- H. Thoroughly clean area and remove any trash or other debris.

§ 73-4. Violations and penalties

Any person violating the provisions of this chapter shall be fined \$100 and costs for each and every offense.

Minutes of the August 28, 2009 Regular Council Meeting

Proposed 1st Reading – July 24, 2009

Proposed 2nd Reading – August 28, 2009

Charter – Section 15:

Existing:

Section 15 – Vacancy.

Proposed:

Section 15 – Vacancies and Forfeitures:

- A. Vacancies. The office of a Town Council member shall become vacant upon death, incapacity, resignation or forfeiture of such office. In case of vacancy created in the Town Council, by death, resignation or otherwise, the remaining members of the Council may fill such vacancy by appointment. The person so appointed shall serve for the unexpired term or until his or her successor shall be elected and duly qualified.
- B. Forfeiture proceedings. A forfeiture of such office shall occur when any Town Council member:
- (1) Is no longer qualified to hold such office;
 - (2) Willfully violates any provision of this Charter;
 - (3) Is convicted of any felony or crime involving any felony; or
 - (4) Fails to attend three (3) regular Town Council meetings per fiscal year without being excused by Town Council vote.
- C. Determination concerning Forfeiture. Where the conditions set forth in Section 15 (B), items (3) or (4) occur, forfeiture shall be automatic. Where the conditions set forth in 15 (B), items (1) or (2) are alleged, forfeiture shall be approved by the remaining Town Council members. Such decision shall be made in executive session, and if the Town Council determines by majority vote that a forfeiture has occurred, it shall, within forty eight (48) hours thereafter, provide written notice thereof to the affected Town Council member, by certified mail, return receipt requested, sufficiently posted. Written notice shall be deemed provided when deposited in first-class mail with sufficient postage. The affected member shall be entitled to a hearing and then shall have thirty (30) days in which to make a written request for a public hearing before the Town Council, which hearing is to be held within forty five (45) days of the written request and at which hearing such member may appear with the assistance of counsel and present evidence to relevant issues. The Town Council shall also hear any other relevant evidence and vote again on the question of forfeiture. A determination of forfeiture shall be made only by unanimous vote of the Town Council members present and entitled to vote on the question.
- D. Failure to Request Hearing as a Bar. Failure of the affected member to make written request for a public hearing as hereinabove stated shall be an absolute bar to his or her right to challenge the town Council's decision. If a public hearing is held, the Town Council shall have authority to subpoena witnesses, administer oaths, take testimony, and require the production of documentary or physical evidence, all of which shall be done on behalf of the affected person if requested, in writing, by him/her."



The Town of Fenwick Island

800 Coastal Highway
Fenwick Island DE 19944
302.539.3011 * Fax: 302.539.1305

www.fenwickisland.delaware.gov

BUDGET REPORT AUGUST 2009

Period 1 – FY 8/1/09 – 7/31/10

Summary

The Town of Fenwick Island collected 23% of its annual budgeted revenue in August. It spent 8.7% of its budgeted expenses. This can be compared to the same period in 2008 where 15% of budgeted revenues were collected and 19% of budgeted expenses were realized.

After all expenses were subtracted from income, the Town realized a \$173,125 net "gain" for the month. This is a \$73,146 improvement over August 2008. Gains are offset by lifeguard payroll later in the year.

Analysis

A significant contributor to this was the very timely deposit and posting of property tax, trash and ambulance fees remitted. Our Municipal Clerk, Agnes DiPetrantonio, can be credited with this accomplishment.

The increase in the garbage collection fee (to include recycling costs) further contributed to this surplus. This is within the "Charges for Services" category. It should be noted, though, that the total property tax projection for this year is no greater than it was in 2008. So, at some point, the year-to-year comparison for this category will show a monthly decline – and an overall difference of very little value.

Building permit fees increased a modest \$1,390, but this is a good sign for 2009. The \$1,800 collected is more than triple the amount for the same period in 2008. This category was a major factor in the revenue deficit experienced last year. The forecast for 2009 permit income is not so ambitious, but it is important.

Other Income notes

Fines and forfeitures were more than double the amount collected in August 2008 – at \$8,237. The final \$11,000 State lifeguard contract payment was deposited in July of last year – as opposed to August 2009. So the loss of \$10,000 in County Police Grant revenue does not appear quite as negative as it is.

Expense notes

The year-to-year comparison shows that the Police Department spent 21% less in 2009 than in 2008. This is a department without a large seasonal variation in expenses. So the 6.4% of budgeted expenses compares favorably with the passage of 8.3% of the year.

The same can be said of Public Works and General Government at 6.6% and 5.4%, respectively. The Administrative Department stands at 8.2% of its budget for the year. This can be attributed to the Professional Services line item. The last payment on our CPA contract (for services in July) was made in August – and that is 100% of the budgeted amount for this category. This skewed the budget average. When compared to 2008, though, this department spent 13% or \$3,267 less during the same period.

This concludes the FY 2009-10 period 1 monthly report.

Respectfully submitted,

Win Abbott, Town Manager

REVENUES		EXPENDITURES					
	August	Budget	% Budget		August	Budget	% Budget
43000-Taxes				61100 Police Department			
Rental Tax	5071	275,000	2.00%	Payroll-related exp	26,228	389,682	6.73%
Property Tax	218,912	625,000	35.00%	Veh maint, gas & oil	1138	19,000	5.99%
				Computer & air time	273	5,000	5.46%
44550-Charges for Services - Admin				Training	0	3,000	0.00%
Business Licenses	1264	82,500	150.00%	Uniform, Equip maint	269	5,000	5.38%
Garbage & Recycling	62,245	178,160	34.94%	Office Supplies, Print	0	7,000	0.00%
Comcast franchise fee	9681	28,000	34.58%	Hurricane Readiness	0	3,000	0.00%
Ambulance Service	9834	27,120	36.26%	Sub-total	27,908	431,682	6.46%
Bldg Permit Fees	1800	75,000	2.40%				
				61500 Lifeguards			
44800-Fines & Forfeitures				Payroll-related exp	46,771	179,750	26.02%
Penalties	50	3,000	1.67%	Uniform, Supplies, etc	60	7,500	0.80%
Traffic and Parking Fine	8187	55,000	14.89%	Training & Certification	0	1,400	0.00%
				Misc. & Junior Guards	244	900	27.11%
45000- Investments				Gasoline	47	200	23.50%
Inv. Income	125	9,000	1.39%	Sub-total	47,122	189,750	24.83%
46430- Misc. Revenue				61800 Public Works Department			
Parking Perm.	5215	25,000	20.86%	Payroll-related exp	15,485	225,457	6.87%
Bonfire Permits	430	2,500	17.20%	Building maint Utilities	98	5,600	1.75%
Town Hall rent	40	2,000	2.00%	Gas & Oil	188	4,000	4.70%
Misc income & copy fee	29	5,100	0.57%	Equip, Repairs & Maint	326	4,500	7.24%
Insur. Reimb	0	5000	0.00%	Training & Safety Equip	0	2,000	0.00%
Beach concession	0	20,000	0.00%	Uniforms, Shop & Misc	42	2,450	1.71%
Misc - Jr. lifeguard	0	2,500	0.00%	CDL License Test	48	500	9.60%
Misc. Revenue Police	100	7,200	1.39%	Sub-total	16,187	244,507	6.62%
Sale of Equipment	10						
Carry-over from prior ye	0						
Grant Revenue	26000	90,000	28.89%				
Total Revenues	348993	1,517,080	23.00%				
				Total Expenses	132,203	1,517,080	8.71%

TOWN OF FENWICK ISLAND
Monthly Reconciliation of Checking and Savings Accounts
For the Periods Ended August 31, 2009

Checking - PNC of Delaware

	Ending	Beginning
General Fund	85,107.00	96,418.37
Petty Cash	200.00	200.00
MSA Fund	1,515.03	3,285.58
Payroll Fund	1,729.93	-12,977.45
SALLE Fund	3.28	3.28
EIDE Drug Enforcement	2,498.64	2,498.64
Criminal Justice	126.15	126.14
Parks & Recreation Fund	2,345.24	2,394.67
SLEAF Fund	30.00	30.00

Total Checking	\$93,555.27	\$91,302.47
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Savings - PNC of Delaware

MSA Fund Savings	\$5,295.64	\$5,294.34
General Fund Savings	\$159,985.69	\$68,143.87
Realty Transfer-Non Reserve	\$86,430.43	\$86,393.74

Total Savings	\$251,711.76	\$159,831.95
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Total Cash	\$345,267.03	\$251,134.42
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INVESTMENTS

Wilmington Trust Company - DELGIP

General Fund Savings	330,807.76	330,774.38
Beach Replenishment	35,354.08	35,350.75
Realty Transfer Non Reserve	567,800.30	567,742.52
Realty Transfer Reserve	315,327.72	315,296.42

Certificates of Deposit and Other Investments

Realty Transfer Fund

Sussex County FCU	\$349,321.20	\$349,321.20
PNC 13 Month CD @ 2.8%	\$176,190.25	\$176,087.18
Edward Jones Investments - CD's	\$179,274.09	\$175,882.79

Total Investments	\$1,954,075.40	\$1,950,455.24
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Total Cash & Investments	\$2,299,342.43	\$2,226,875.94
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RESERVE ACCOUNTS

Compensated Absences	\$19,148.47	\$19,148.47
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September 17, 2009

To: Winn Abbott, Town Manager

From: Tim Ferry, Captain, Fenwick Island Beach Patrol

Re: Summer 2009 Final Report

<u>Month</u>	<u>Rescues</u>	<u>Ambulance</u>	<u>LT. Emergency</u>	<u>Lost Persons</u>
May	2	0	0	0
June	39	0	2	6
July	32	1	12	17
Aug.	45	1	8	18
Sept.	3	0	2	3
Total:	121 (90)	2 (8)	24 (23)	44 (45)

- We also treated approximately 200 people for minor first aid *
- We had well over 450 preventive actions

The summer of 2009 was another safe and successful one for the FIBP. Weather conditions varied in June while water temperature and surf conditions (rip currents) resulted in average activities and actions taken on the beach this summer with the exception of increased rescues due to Atlantic storms. Nonetheless, the guards did an outstanding job protecting our beach. We continued to upgrade and implement training regimens and standards as recommended and required by the United States Lifesaving Association to ensure the finest training for our guards.

Competition:

Our competition teams excelled once again this summer. The FIBP placed 1st in two of the six local & regional competitions (& three 2nd place finishes) and was topped off by another impressive showing at the National Championship held in Fort Lauderdale, Fl. Our five person team did extremely well with a total of 6 medals. The ability to compete at this level definitely encourages the guards to work that much harder in our workouts and consequently we have very well trained lifeguards on the stand.

Junior Lifeguard Program:

The Junior Lifeguard program was a huge success this year. Over 100 kids participated and culminated in 20 of them competing in the Junior Lifeguard competition in Rehoboth Beach in August. The Advanced program also had a big increase with 25 participants throughout the summer.

Training / USLA Certification:

We made sure that all USLA recommendations and standards were being upheld which included more inclusive CPR, AED, and First Aid training as well as summer long training in rescues and drills. Along with the technical aspect of the training, our morning workouts were more intense and geared towards all aspects of the job. We also added a new regimen to our workouts by collaborating with World Gym in Ocean View to do a "Boot Camp" workout once a week. This ensured that guards were very physically fit and was a factor in doing well at the competitions.

State Beach:

We fulfilled all contract obligations and we fully staffed the beach area from Memorial Day Weekend until Labor Day.

We had an excellent and safe summer in 2009. Our staff was outstanding and I expect most to return next year. The Beach Patrol appreciates the way the Town of Fenwick supports us and I thank you for the opportunity to serve the town.

Respectfully,

Tim Ferry
Captain, Fenwick Island Beach Patrol

**TOWN OF FENWICK ISLAND
BUILDING REPORT
AUGUST 2009**

PERMIT #	PROPERTY DESCRIPTION	PROJECT DESCRIPTION	E.C.C.	TOTAL
3794	Flexera, Inc. Seaside Country Store 1208 Coastal Hwy Lots 60/61 1-34 23.12 96.00	Install 94 Suntech grid tred solar panels	\$173,812.00	\$100.00
3795	W. Carmean 38 W. Essex St. Ext. Lot 542 1-34 23.12 40.00	Erect 40"x74' wooden fence	\$1,684.00	\$50.00
3796	Atlantic Bldg. Service J. Ward 11 W. Atlantic St. Lots 69/70	Replace existing exterior steps & handrails; replace rotted deckboards	\$10,000.00	\$300.00
3797	T. Simpler 31 W. Bayard St. Ext. Lot 367 1-34 23.16 61.00	Repair/replace 74' bulkhead & 3.5' x 6' rip- rap	\$19,100.00	\$573.00
3798	T. Rockhill 900 Schulz Rd. Lots 433 (1/2) unk. Lot 1-34 23.16 6.00	Demolish house	\$6,500.00	\$195.00
3799	Sussex Marine Const. S. Schultz 1214 Schulz Rd. Lot 2 1-34 23.12 12.00	Repair/replace 50' bulkhead	\$9,000.00	\$270.00
3800	J. Balsamo 1106 Coastal Hwy. Lots 53/54/55 1-34 23.12 68.00	Replace 1100 s.f. pad for dumpster area	\$5,300.00	\$159.00
3801	Double Diamond Bldrs. J. Kelleher 27 W. Atlantic St. Lot 62 1-34 23.16 121.00	200 s.f. rear deck	\$5,100.00	\$153.00
		TOTAL	\$224,646.00	\$1,800.00

CERTIFICATE OF COMPLIANCE

Permit #3740 - 1-34 23.12 106.00 – 22 W. Georgetown Street (Collins)
Permit #3655/3754 – 1-34 23.08 31.00 – 11 E. Lewes Street (Robinson)

PUBLIC WORKS DEPARTMENT REPORT
August 18, 2009 to September 16, 2009

The following activities have been performed by the Public Works Department for this time period.

- Drainage, shoulder, sign, and post work was performed throughout this time frame.
- Routine maintenance of buildings, equipment, grounds and median was performed during this time frame.
- Cut and trim grass in right of way and park.
- Water town flower pots throughout town
- Prime and paint 8 barricades.
- Clean grass out from under benches on the dunes.
- Order, obtain, and install 2 bricks in the park.
- Prime and paint 2 bike stands in the park.
- Pull, clean, and store 4 volleyball posts and one net off of Essex and Farmington beach ends for lifeguards.
- Street clean ups after heavy weather events.
- Safety meeting basic fire prevention and truck safety 8-25-09
- Repair of eroded side of Cannon beach end.
- Pick-up, repair, touch up paint, and return to service broken lifeguard stand off of Delaware Ave.
- Remove lifeguard stands off of unincorporated part, and Farmington, and Bayard beach ends to the yard for clean up for the year. Wash stands and take signs off of stands put signs in lifeguard shed.
- Found a discarded wheeled cart in trash repaired and painted for use as a garden cart.
- Remove and replace public works entrance door and frame and paint

- Paint 8 yellow post around gas tank and generator.
- Heavy pick-up of trash and appliances Sept 9, 10, 11

Respectfully submitted,

Wilmer E. Abbott IV
Town Manager

FENWICK ISLAND POLICE DEPARTMENT

MEMORANDUM

TO: PRESIDENT
COUNCIL MEMBERS
CITIZENS

FROM: Chief William Boyden

DATE: September 14, 2009

SUBJECT: AUGUST MONTHLY REPORT

Attached you will find the Police Report for the month of August 2009.
The report is submitted for your review and approval.

Summary of report:

	2009	2008
Traffic Arrests/Citations	165	209
Total Number of Complaints	67	60
DUI Arrests	1	3
Criminal Arrests	11	7
Parking Tickets	89	83

Existing – Chapter 48 (Animals)

§ 48-8. Attack by pets or other animals.

It shall be unlawful for any person to permit any pet or other animal owned by him/her or under his/her control to attack or molest any person or domestic pet or other animal on private or public property not owned or leased by the owner or guardian of such animal or the person exercising control thereof. This offense shall be punishable by a fine of not less than \$100 nor more than \$200.

§ 48-9.1. Violations and penalties.

Any person violating any of the provisions of this article or committing any of the acts herein declared to be unlawful where no other specific penalty is provided shall, upon conviction thereof by a court of competent jurisdiction, be deemed guilty of a misdemeanor and punishable by a fine of not less than \$100.

§ 48-13. Violations and penalties.

Any person or persons who shall violate the prohibitions of § 48-11 of this article shall be fined not less than \$200 nor more than \$1,000 for each offense. Each incident or each day that such an offense continues or reoccurs shall be deemed a separate offense.

Proposed:

§ 48-8. Attack by pets or other animals.

It shall be unlawful for any person to permit any pet or other animal owned by him/her or under his/her control to attack or molest any person or domestic pet or other animal on private or public property not owned or leased by the owner or guardian of such animal or the person exercising control thereof. This offense shall be punishable by a fine of \$100.

§ 48-9.1. Violations and penalties.

Any person violating any of the provisions of this article or committing any of the acts herein declared to be unlawful where no other specific penalty is provided shall, upon conviction thereof by a court of competent jurisdiction, be deemed guilty of a misdemeanor and punishable by a fine of \$100 for each offense.

§ 48-13. Violations and penalties.

Any person or persons convicted of violating the prohibitions of § 48-11 of this article shall be fined \$100 for each offense. Each incident or each day that such an offense continues or reoccurs shall be deemed a separate offense.

Existing – Chapter 52 (Beaches)

§ 52-11. Violations and penalties.

Any person convicted of violating the provisions of Article II shall be subject to a fine of not less than \$25 nor more than \$100. The registered owner of a vessel in violation of Article II shall be held responsible for the violation.

§ 52-13. Exempt activities.

State of Delaware or Town of Fenwick Island, Delaware, official or authorized personnel or activities on the primary dune or beach are exempt from the provisions of this article.

§ 52-15. Closing of beach for repair.

The Council shall close sections of the beach strand while beach and dune repairs are in process and shall be patrolled by employees designated by Council. No undesignated person or persons or vehicles shall be allowed on the areas closed by the Council during the beach and dune repair process.

§ 52-16. Violations and penalties.

Any person or persons who shall violate any provision of Article IV shall, upon conviction thereof, be fined not more than \$100. Each day of a separate and continuing violation shall be deemed a separate offense.

Proposed:

§ 52-11. Violations and penalties.

Any person convicted of violating the provisions of Article II shall be subject to a fine of \$100 for each offense. The registered owner of a vessel in violation of Article II shall be held responsible for the violation.

§ 52-13. Exempt activities.

State of Delaware or Town of Fenwick Island, Delaware authorized official Personnel or activities on the primary dune or beach are exempt from the provisions of this article.

§ 52-15. Closing of beach for repair.

The Council shall close sections of the beach strand while beach and dune repairs are in process and shall have the power and authority to designate its employees and/or approved contractors and their employees to patrol the work area. No undesignated person or persons or vehicles shall be allowed on the areas closed by the Council during the beach and dune repair process.

§ 52-16. Violations and penalties.

Any person or persons convicted of violating any provision of Article IV shall be subject to a fine of \$100. Each day of a separate and continuing violation shall be deemed a separate offense.

Proposed 1st Reading – August 28, 2009
Proposed 2nd Reading – September 25, 2009

Chapter 100 Licensing – 100-3:

Add:

- (5) Any concession that operates in Town and/or the beach shall require a license

Proposed 1st Reading – August 28, 2009
Proposed 2nd Reading – September 25, 2009

Chapter 116 Peace and Good Order - 116-2:

Existing:

§116-2. Soliciting sales on public beaches.

It shall be unlawful for any person to sell or solicit the sale of anything on any part of the public beaches or public streets within the corporate limits of the Town of Fenwick Island, Delaware.

Add:

Add to the end of this sentence: “unless such activity is approved by Town Council.”